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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,353	09/30/2003	Manfred Aichinger	086166-0306156	3444
909	7590	07/08/2005	EXAMINER	
PILLSBURY WINTHROP SHAW PITTMAN, LLP			HARRIS, KATRINA B	
P.O. BOX 10500			ART UNIT	PAPER NUMBER
MCLEAN, VA 22102			3747	
DATE MAILED: 07/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/673,353	AICHINGER ET AL.
Examiner	Art Unit	
Katrina B. Harris	3747	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on 07 March 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

- 4)  Claim(s) 2-12 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 2-12 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## DETAILED ACTION

### ***Allowable Subject Matter***

The indicated allowability of claims 2-12 is withdrawn in view of the newly discovered reference(s) to Bourret et al and Hattori. Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 5-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bourret et al (6,769,942) in view of Hattori (5,957,072). Bourret et al. discloses a personal watercraft (10) comprising: a deck disposed on the hull (12); an engine compartment (14) defined between the hull (12) and the deck; a four stroke internal combustion engine disposed in the engine compartment, a propulsion unit (18) operatively coupled to an end of the crankshaft; at least one air intake manifold operatively connected to the at least one air intake passageway; an air/water separating device (20) in fluid communication with the air intake manifold for separating water out from the induction air; and a supercharger (see column 5, lines 31-37) for boosting air to the air intake manifold arranged in fluid communication between the air/water separating (20) device and the intake manifold.

Bourret et al. does not disclose the engine comprising: a crankcase having a top, a bottom, two sides, two ends and a crankshaft rotatably mounted therein between the two ends; a cylinder head connected to the top of the crankcase, the crankcase and the cylinder head forming at least one combustion cylinder chamber there between; at least one intake valve for the at least one combustion cylinder chamber; at least one exhaust valve for the at least one combustion chamber; a valve actuation assembly located in the cylinder head for actuating the at least one intake valve and the at least one exhaust valve; at least one air intake passageway connected to the at least one combustion cylinder;

Hattori discloses a personal watercraft wherein the engine comprising: a crankcase (10a) having a top, a bottom, two sides, two ends and a crankshaft (40) rotatably mounted therein between the two ends; a cylinder head (10c) connected to the top of the crankcase (10a), the crankcase and the cylinder head (10c) forming at least one combustion cylinder chamber there between; at least one intake valve (43) for the at least one combustion cylinder chamber; at least one exhaust valve (44) for the at least one combustion chamber; a valve actuation assembly located in the cylinder head (10c) for actuating the at least one intake valve (43) and the at least one exhaust valve (44); at least one air intake passageway connected to the at least one combustion cylinder.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the engine of Bourret et al. to include the specifics of

the engine of Hattori in order to provide an engine having necessary operative elements of a four stroke engine.

Regarding claim 3, Bourret et al. discloses a bow (78) and a transom; wherein the supercharger (see column 5, lines 31-37) is disposed rearwardly of the water-separating device (20) towards the transom of the personal watercraft.

Regarding claim 5, Bourret et al. has a straddle-type seat on the deck, wherein the engine (14) is disposed below the seat.

Regarding claim 6, wherein the water separating device of Bourret et al. has a body defining a volume, an inlet and an outlet.

Regarding claim 7, the water separating device is separated in at least two chambers.

Regarding claim 8, the crankshaft of Bourret et al. is horizontally disposed.

Regarding claim 9, the propulsion unit (18) is a jet propulsion unit of Bourret et al. is disposed rearwardly of the engine.

Regarding claim 10, further comprising an air box (the walls of the air/water separator define an air box) of Bourret et al. in fluid communication with the air intake manifold, and wherein the air/water separating device is disposed within the air box.

Regarding claim 12, handlebars mounted on the deck for steering the personal watercraft. (See Figures 1 and 8) of Bourret et al.

Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bourret et al (6,769,942) in view of Kato (4,709,682). Bourret et al. discloses a personal

watercraft (10) having a supercharger (). Bourret et al. does not disclose that the supercharger is mechanically driven. Kato discloses a mechanically driven supercharger. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the invention of Bourret et al to include the mechanically driven supercharger of Kato since this merely involves substituting elements of art recognized equivalence. See MPEP 2144.06

### ***Communication***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katrina B. Harris whose telephone number is 571-272-4842. The examiner can normally be reached on 6:00 AM -2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on 571-272-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Katrina B. Harris  
Examiner  
Art Unit 3747

KBH



Henry C. Yuen  
Supervisory Patent Examiner  
Group 3700